

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 09-O-13928-RAH
)	
ROBIN CHANDLER CARR,)	DECISION AND ORDER SEALING
)	CERTAIN DOCUMENTS
Member No. 154023,)	
)	
<u>A Member of the State Bar.</u>)	

Introduction¹

In this original disciplinary proceeding, respondent Robin Chandler Carr (respondent) was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that she be placed on probation for three years subject to certain conditions, including a 90-day period of suspension (with credit given for the period of inactive enrollment under section 6233).

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¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Significant Procedural History

The State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on October 14, 2009, in case no. 09-O-13928. The matter was assigned to the undersigned judge.

On November 3, 2009, respondent contacted the State Bar's Lawyer Assistance Program (LAP) to assist her with his mental health issue(s).

Following a status conference on November 3, 2009, the court filed an order on November 4, 2009, ordering respondent to contact and cooperate with the State Bar's LAP.

On December 11, 2009, respondent submitted a declaration to the court which established a nexus between respondent's mental health issue(s) and her misconduct in this matter.

On December 18, 2009, the parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) which was received by the court that same day.

Respondent entered into a long-term Participation Plan with the LAP on June 14, 2010.

Following briefing by the parties, the court advised the parties of (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP, and (2) the discipline which would be recommended to the Supreme Court if respondent was terminated from, or failed to successfully complete, the ADP. After agreeing to the alternative discipline recommendations, the court memorialized in writing the alternative discipline recommendations in a Confidential Statement of Alternative Dispositions and Orders (Confidential Statement); the court signed an order approving the parties' Stipulation; the Stipulation was filed; respondent executed a Contract and Waiver for Participation in the State

Bar Court's ADP (Contract);² the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP commenced on July 2, 2010.³

Thereafter, respondent participated successfully in both the LAP and the State Bar Court's ADP.

On July 7, 2010, the court issued an order pursuant to section 6233 enrolling respondent as an inactive member of the State Bar effective October 4, 2010. The order also required respondent to comply with certain requirements, as modified by the court, set forth in rule 9.20 of the California Rules of Court, including the filing of an affidavit showing that she has complied with the requirements. Respondent timely filed her rule 9.20 compliance declaration on November 10, 2010.

Respondent's inactive enrollment was terminated effective January 3, 2011, at a status conference held on that date. This was later reduced to a written order which was filed on January 5, 2011.

On January 5, 2012, the court received a Certificate of One Year of Participation in the Lawyer Assistance Program – Mental Health, which reflects that respondent has satisfied the requirements set forth in her LAP Participation Agreement/Plan for at least one year prior to January 3, 2012.⁴ The certificate also reflects that for at least one year prior to January 3, 2012, respondent has maintained mental health stability and has participated successfully in the LAP.

On January 17, 2012, the court filed an order filing that respondent has successfully completed the ADP, and this matter was submitted for decision on that date.

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² The Confidential Statement and Contract were lodged on July 2, 2010.

³ On July 7, 2010, the court filed an order finding that respondent is accepted into the ADP, and the start date of respondent's participation in the ADP is July 2, 2010.

⁴ Although the certificate is dated January 3, 2011, this appears to be an error.

Findings of Fact and Conclusions of Law

I. Culpability Findings

Case No. 09-O-13928 – Probation Violations

The parties' Stipulation, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein.

Respondent stipulated to willfully failing to comply with all conditions attached to her disciplinary probation in violation of section 6068, subdivision (k), by failing to (1) timely provide her home address to Probation; (2) timely provide a medical waiver to Probation; (3) promptly respond to all Probation inquiries; (4) timely submit a treatment plan; (5) timely submit all quarterly reports (6) timely submit all mental health reports; and (7) comply with all mental health conditions of her probation.

II. Aggravation⁵

Prior Record of Discipline (Std. 1.2(b)(i).)

Respondent has a record of three prior impositions of discipline. Effective May 4, 2005, respondent was privately reprovved with conditions for one year in State Bar Court case No. 04-O-15587 for violating section 6068, subdivision (j) by failing to comply with section 6002.1, and for violating section 6068, subdivision (a) for violating sections 6125 and 6126.

Effective May 13, 2007, respondent was suspended for one year; the execution of such suspension was stayed; and respondent was placed on probation for two years in Supreme Court matter S150150 (State Bar Court case No. 06-H-12155) for violating rule 1-110 by violating conditions of her private reproof.

Effective November 2, 2008, respondent was suspended for one year; the execution of such suspension was stayed; and respondent was placed on probation for two years and actually

⁵ All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

suspended for 60 days in Supreme Court matter S150150 (State Bar Court case No. 08-PM-10681) for violating section 6093, subdivision (b).

III. Mitigation

Candor/Cooperation to Victims/State Bar (Std. 1.2(e)(v).)

The parties stipulated that respondent displayed spontaneous candor and cooperation with the victims of her misconduct and to the State Bar during disciplinary investigation and proceedings.

Other – Severe Financial Stress

At the time of her misconduct, respondent suffered from severe financial stress which resulted from circumstances which were not reasonably foreseeable or which were beyond her control and which were directly responsible for her misconduct. Due to the economy in 2009, respondent was only receiving regular monthly payments from about 20% of her immigration clients. Also, in late June 2009, respondent experienced car trouble. The lack of money to repair or replace the car and inadequate local public transportation resulted in respondent being unable to meet with her mental health professional from June through September 2009.

Extreme Emotional/Physical Difficulties (Std. 1.2(e)(iv).)

Respondent sought to participate in both the LAP and the court's ADP due to her mental health issue(s), and she successfully participated in both the LAP and the court's ADP. It is appropriate to now consider respondent's successful completion of the ADP as a mitigating circumstance in this matter.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the

highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. In particular, the court considered standards 1.2(b), 1.2(e), 1.3, 1.6, 1.7(a), and 2.6, and *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81.

Because Respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below.

Recommendations

It is hereby recommended that respondent Robin Chandler Carr, State Bar Number 154023, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that she be placed on probation⁶ for a period of three years subject to the following conditions:

Respondent Robin Chandler Carr is suspended from the practice of law for the first 90 days of probation (with credit given for inactive enrollment, which was effective October 4, 2010, through January 4, 2011 (Bus. & Prof. Code, §6233));

During the probation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;

Within 10 days of any change, respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California (Office of Probation), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;

Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to

⁶ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;

Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the period of probation and no later than the last day of the probation period;

Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions;

Within one year after the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session; and

Respondent must comply with all provisions and conditions of her Participation Agreement/Plan with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of her Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and her compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.

At the expiration of the period of probation, if Robin Chandler Carr has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is further recommended that Robin Chandler Carr be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

Respondent's failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

California Rules of Court, Rule 9.20

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. It is further recommended that costs be paid with respondent's membership fees for the year 2013. If respondent fails to pay costs as described above, or as may be modified by the State Bar Court, costs are due and payable immediately.

Direction Re Decision and Order Sealing Certain Documents

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(c) of the Rules of Procedure of the State Bar (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: February _____, 2012

RICHARD A. HONN
Judge of the State Bar Court